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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,124	01/28/2004	Koichi Tamura	045054-0157	2246
22428	7590	12/11/2007		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER BRANDT, CHRISTOPHER M	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/765,124	Applicant(s) TAMURA, KOICHI	
	Examiner Christopher M. Brandt	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; ~~as set forth in (b)~~ above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The argued features, i.e., a path searching circuit employed in a CDMA communication system: comprising: a weighing controlling section to monitor a power level change of a sample of two or more delay profiles to be used in same power adding processing in delay profile calculation for path search processes and to assign weight to a power level of a particular sample according to a result from the monitoring; where a comparison as to whether said weighing control is exercised on a specified sample depends upon a number of samples of a candidate for said weighing control, reads upon the cited references as follows. Jonsson is discussing a path searcher of a receiver that is run to derive the current power delay, where delay powers received during the current path-searcher activation are first selected with the largest powers. In addition, each selected power is ranked and given a ranking weight, where the contribution of a delay number is added to the power delay profile discrepancy variable. Therefore, Jonsson discloses the limitation, "a weighing controlling section to monitor a change of a power level of a sample of each of two or more delay profiles to be used in same power adding processing in delay profile calculation for path search processes and to assign weight to a power level of a specified sample according to a result from the monitoring". Jonsson disclosed that each selected power is ranked and given a ranking weight, however did not specifically show that a judgment as to whether said weighing control is exercised on a specified sample depends upon a number of samples of a candidate for said weighing control and was modified by Morita to show that it would have been obvious to one of ordinary skill in the art to modify Jonsson and judgment as to whether said weighing control is exercised on a specified sample depends upon a number of samples of a candidate for said weighing control. Morita discloses a weight demodulator that demodulates the feedback signal to obtain the power comparison result and calculated phase difference, and updates the first and second complex-valued weights based on this power comparison result and calculated phase difference. With regards to applicant's argument that Morita does not mention a judgment being made, or any determination of when to exercise weighing control, the examiner respectfully disagrees. Morita discloses that the received power of the first known signal (i.e. sample 1) and the received power of the second known signal (i.e. sample 2) according to the plural reception paths are compared (i.e. judged) to obtain resulting power comparison (paragraph 8). In other words, Morita compares (or judges) when the two samples (received power) are received at the plural reception paths and then a power comparison result is obtained to update the first and second complex-valued weights. Therefore, Jonsson in view of Morita disclose the limitation, "wherein a judgment as to whether said weighing control is exercised on a specified sample depends upon a number of samples of a candidate for said weighing control". With regards to applicant's argument that Higashi does not disclose "a difference in power levels among specified samples is a change threshold or more", the examiner respectfully disagrees. Higashi is discussing two threshold levels for the average signal level (of power as claimed), in which the paths whose amplitudes (in power as claimed) are less than a smaller second threshold level are cancelled without being combined because they cannot be distinguished from noise (i.e. compared), the paths whose amplitudes are between the first and second threshold levels (i.e. comparing between different thresholds) are combined before detections. Therefore, the claims are written such that they read upon the cited references.



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12/03/2007



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